IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

SECOND APPEAL NO.1447 OF 2004
WITH
CIVIL APPLICATION NO.1919 OF 2004

Smt.Laxmkibai Rambhau Bagade. ...Appellant.
Vs.
Anand Appa Chavan since deceased by
his Lrs. Smt.Satyabhama A. Chavan & Ors....Respondents.
....
Mr. Prataprao J. Shinde for the Appellant.
Shailendra Kanetkar for Respondent No.2.
.....

CORAM :DR.D.Y.CHANDRACHUD, J.
July 10, 2007.

P.C.:

From the decree of the Trial Court, it would appear that the entire case of the Plaintiff was based on an alleged encroachment. When the matter was carried in appeal, the Learned District Judge recorded the statement of Counsel for the Original Plaintiff that the suit was not based on a right of ownership but the Plaintiff was seeking to establish an easementary right. The District Judge was, in these circumstances, justified in reversing the decree since neither were there any adequate pleadings in support of the plea of an easementary right, nor was there any evidence in respect thereof. The Second Appeal does not raise any substantial question of law

and is accordingly dismissed.

In view of the dismissal of the Second Appeal, the Civil Application does not survive and is accordingly disposed of.

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